

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

:

v.

: **Criminal No. 08-226**

ERIC DANYEL MILLER

:

O R D E R

AND NOW, this day of November 2008, upon consideration of the government's motion to dismiss the indictment in the above-captioned case, charging defendant Eric Miller, it is hereby

ORDERED

that the motion is granted, and the indictment is dismissed without prejudice.

BY THE COURT:

NORMA L. SHAPIRO
United States District Judge

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

v. : **Criminal No. 08-226**

ERIC DANYEL MILLER :

GOVERNMENT'S MOTION TO DISMISS THE INDICTMENT

The United States of America, by its attorneys, Laurie Magid, Acting United States Attorney for the Eastern District of Pennsylvania, and Salvatore L. Astolfi, Assistant United States Attorney for the district, and Katayoun Copeland, Special Assistant United States Attorney for the district, hereby moves to dismiss without prejudice the indictment in the above-captioned case as to defendant Eric Miller.

In support of this motion, the government states as follows:

1. On April 23, 2008, a federal grand jury returned an indictment charging the defendant Eric Miller with two counts of convicted felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1), and two counts of carrying and using a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c).

2. On August 6, 2008, a federal grand jury in the Eastern District of Pennsylvania returned an indictment titled United States v. Alfonso Caldwell, Criminal Number 08-458, charging Alfonso Caldwell with participating in a conspiracy to distribute in excess of 5 kilograms of cocaine between approximately October 2005 and September 2006, in violation of 21 U.S.C. §841(a)(1). On August 27, 2008, a federal grand jury in the Eastern District of Pennsylvania returned an indictment titled United States v. Alfonso Caldwell, Criminal Number

08-488, charging Alfonso Caldwell with money laundering, in violation of 18 U.S.C. §1956.

These indictments were later consolidated on motion of defendant Alfonso Caldwell.

3. On November 5, 2008, a federal grand jury returned a superseding indictment in the case titled United States v. Alfonso Caldwell, et al., Criminal Number 08-458, adding defendant Eric Miller and two others to that case and charging them with conspiracy to distribute approximately 500 kilograms of cocaine from in or about October 2005 to in or about June 2007, in addition the two counts of 18 U.S.C. § 922(g)(1) (convicted felon in possession of a firearm), and the two counts of 18 U.S.C. § 924(c) (carrying and using a firearm in furtherance of drug trafficking) for which defendant Eric Miller currently is under indictment before Your Honor were added to the superseding indictment. Defendant Alfonso Caldwell was also charged in one of the 18 U.S.C. § 922(g)(1) and one of the 18 U.S.C. § 924(c) counts with defendant Eric Miller.

WHEREFORE, the government respectfully requests that its motion to dismiss the indictment without prejudice in the above-captioned case as to defendant Eric Miller be granted.

Respectfully submitted,

LAURIE MAGID
Acting United States Attorney

SALVATORE L. ASTOLFI
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via U.S. Mail and electronic filing this date upon counsel for defendant:

Allan J. Sagot, Esquire
Three Parkway
Suite 1300
Philadelphia, PA 19102

SALVATORE L. ASTOLFI
Assistant United States Attorney

Date: